

September 12, 2014



**Talbot County Planning Commission**  
**Final Decision Summary**

Wednesday, July 2, 2014 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

**Attendance:**

Commission Members:

Thomas Hughes  
William Boicourt  
Michael Sullivan  
Paul Spies  
Jack Fischer

Staff:

Sandy Coyman, Planning Officer  
Mary Kay Verdery, Assistant Planning Officer  
Brett Ewing, Planner I  
Mike Mertaugh, Assistant County Engineer  
Carole Sellman, Recording Secretary

**1. Call to Order**—Commissioner Hughes called the meeting to order at 9:00 a.m.

**2. Decision Summary Review**—June 4, 2014—The Commission noted the following corrections to the draft decision summary:

- a. Line 177, change “impacted” to “affected”.
- b. Line 204, change “Mr.” to “Commissioner”.

Commissioner Spies moved to approve the draft Planning Commission Decision Summary for June 4, 2014, as amended; Commissioner Boicourt seconded the motion. The motion carried unanimously.

**3. Old Business**—None.

**4. New Business**

- a. Administrative Variance—Glenn Gerstell and Phyllis Gerstell, #A206—7628 Quaker Neck Road, Bozman, MD 21612, (map 31, grid 23, parcels 69 and 278, zoned Rural Residential), Dale Overmyer, Dale Overmyer Architects, Agent.

Mr. Ewing presented the staff report of the applicant’s request for construction of two second floor additions over existing porches totaling 496 square feet of new gross floor area. The proposed expansion will be located no closer to mean high water than the existing dwelling at 50 feet.

Staff recommendations include:

1. The applicant shall make an application to the Planning and Permits Department and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Planning Department's notice to proceed.

Dale Overmyer Architect and his associate Dennis Hornig, along with applicant Glenn Gerstell appeared before the Commission. They offered to provide the Commission with more detailed plans if needed.

Commissioner Hughes asked for public comments; none were made.

Commissioner Sullivan moved to recommend to the Planning Officer to approve the administrative variance for construction of two second floor additions on a non-conforming structure owned by Glen Gerstell, 7628 Quaker Neck Road, Bozman, MD 21612, provided compliance with staff recommendations occurs; Commissioner Fischer seconded. The motion carried unanimously.

- b. Donald D. Foster and Ellen M. Foster—Gross Coate Farm, #M1144—Gross Coate Road, Easton, MD 21601 (map 9, grid 22, parcel 7, Lot 8, zoned Rural Conservation/Western Rural Conservation), Elizabeth Fink, Fink, Whitten & Associates, LLC, Agent.

Mr. Ewing presented the staff report and a history of the applicant's request for an eight lot subdivision with two private roads. Lots range in size from 2.2 to 68 acres. The development includes two proposed 40-foot wide private road right of ways and approximately 80 acres encumbered with reserved land to satisfy the cluster subdivision requirements. Remaining development rights are assigned to revised Lot 8 and Lot 16. One of the proposed private roads, Nick Lane is proposed over a perennial stream; the applicant shall relocate or request a variance from the Board of Appeals to cross the stream. Lot 10 does not properly show the building restriction lines.

Staff recommendations include:

1. Address the June 18, 2014 Technical Advisory Committee comments of Planning and Permits, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to final plat submittal.

Elizabeth Fink, Fink, Whitten & Associates, appeared with Donald Foster, applicant. At sketch there were more lots and more percs that did not pass. The lots were reconfigured and made larger. Ms. Fink stated that they have obtained a Maryland Department of Environment permit for the crossing of Nick Lane and the variance will be filed with the Board of Appeals. The lots that have stream

98 buffer will be moved to eliminate their impact on the stream buffer. Nick Lane  
99 will be extended to eliminate the need for a shared access easement between Lots  
100 10 and 11.

101  
102 Commissioner Hughes asked about a broken drainage easement on Lots 13, 14  
103 and 15. Mr. Mertaugh stated that as a matter of policy all new property line  
104 divisions are to have a drainage easement along them. The state requires an SDA  
105 setback of 25 feet from drainage ways. In this particular case, especially for Lots  
106 14 and 15, the sewage disposal areas are relatively close to Gross Coate Road,  
107 there are some existing ditches that need to be shown before the sewage disposal  
108 area locations are finalized.

109  
110 Commissioner Hughes questioned if Gross Coate is a County or private road. Mr.  
111 Mertaugh stated it is a County road until just beyond Lot 14. Commissioner  
112 Hughes asked if it is up to County specifications. Mr. Mertaugh stated the County  
113 tries to require road improvements to mitigate traffic impacts. Commissioner  
114 Hughes questioned how many development rights were to remain on this  
115 property. If in the future more lots were created, then road improvements should  
116 be considered at that time. Mr. Ewing explained that any future development,  
117 even for a single lot would have to come before the Planning Commission. Ms.  
118 Fink stated that there is no plan for future development of the property; this  
119 subdivision is only for estate purposes.

120  
121 Commissioner Fischer was surprised it was permissible to have the sewage  
122 disposal areas so close to the drainage ditch. Mr. Mertaugh stated that based on  
123 COMAR it is required to have a 25 foot setback to any drainage way or drainage  
124 easement. As shown now that is not achieved that is why the broken drainage  
125 easement is there. Additional information is required to finalize the ditch  
126 locations.

127  
128 Commissioner Hughes asked for public comments.

129  
130 Trish Roberts stated she and her husband, Jim Hahn, live on Gross Coate Road.  
131 They are looking for peace and quiet and are concerned about the placement of  
132 the shared access easement for Lots 12 and 13. They wondered if there is any  
133 other way to relocate the shared driveways.

134  
135 Mr. Mertaugh suggested the shared easement could continue to the southwest  
136 away from the common line, to put some space between the Roberts and Hahn  
137 property and then shift to the opposite side of lots 12 and 13 which would give  
138 them some space. The agent, applicant and Mr. Mertaugh reviewed this possible  
139 change. Commissioner Hughes stated this improvement could be finalized with  
140 staff prior to the final review and decision.

Commissioner Spies moved to approve the preliminary major 8 lot subdivision, with two private roads, for Donald Foster, Gross Coate Farms, with staff and Technical Advisory Committee conditions, with the following added conditions:

1. Future development on Gross Coate Road will require review for needed road improvements, specifically width and the intersection with Todds Corner Road.
2. SDA placement ensuring the proper distance from the drainage ditches.
3. Revise the shared access easement to Lots 12 and 13 as discussed at today's meeting.

Motion was seconded by Commissioner Sullivan. The motion carried unanimously.

- c. Faith Drywall & Bldg. Supplies and First Choice Garage Doors, #545—Kitty's Corner Road, Easton, MD 21601 (map 27, grid 4, parcel 7, zoned Limited Commercial), Elizabeth Fink, Fink, Whitten & Associates, LLC, Agent.

Mr. Ewing presented the staff report for a major site plan to legalize the existing operation of a commercial garage door storage business and to convert the existing structure from agriculture to commercial. There are also three waivers: (a) parking waiver of 8 spaces; (b) drive aisle width to change the required 24 feet to 18.75 feet; and (c) landscaping for screening of parking areas.

Staff recommendations include:

1. The applicant shall address all the issues mentioned in the staff report dated June 25, 2014 and the Technical Advisory Committee's comments dated June 18, 2014. Technical Advisory Committee met with the applicant on June 11, 2014.
2. The applicant shall follow all of the rules, procedures, and construction timelines as outlined by the Planning and Permits Department regarding new construction (legalize bathroom and associated septic system).
3. The applicant shall commence construction/operation with the proposed project within one (1) year from the date of the "Notice to Proceed".

Elizabeth Fink, Fink Whitten & Associates appeared on behalf of First Choice Garage Doors. Ms. Fink stated all of the changes have been made. This is not a retail operation, so there is no need for parking. Trees will be along Kittys Corner Road. It is a well kept, well maintained site.

Commissioner Hughes stated the request regarding the waivers is reasonable, provided the use of that building is strictly limited to the uses requested and approved, and if the Planning Commission puts said limitation in the site plan approval. Mr. Ewing stated we have documentation as to the parameters of the

187 approval. A condition that we would like to restrict the future projects or  
188 improvements can be added.

189  
190 Commissioner Hughes asked for public comments; none were made.

191  
192 Commissioner Spies moved to approve the major site plan for Faith Drywall and  
193 Building Supplies, Inc./First Choice Garage Doors with staff and Technical  
194 Advisory Committee conditions. The Planning Commission added the following  
195 condition:

- 196  
197 1. If the current use of the building were to change, the applicant must come  
198 before Planning Commission for approval.

199  
200 Commissioner Boicourt seconded the motion. The motion carried unanimously.

201  
202 Commissioner Hughes asked for public comments on the waivers; none were  
203 made.

204  
205 Commissioner Sullivan moved to grant the parking waiver reducing the number  
206 of parking spaces from 11 to 3 on Matthewstown Road and Kittys Corner Road,  
207 Commissioner Boicourt seconded the motion. The motion carried unanimously.

208  
209 Commissioner Boicourt moved to grant the waiver of drive aisle width from 24  
210 feet to 18.75; Commissioner Sullivan seconded the motion. The motion carried  
211 unanimously.

212  
213 Commissioner Boicourt moved to grant the waiver for landscape screening of the  
214 parking area for First Choice Garage Doors, Commissioner Sullivan seconded the  
215 motion. The motion carried unanimously.

- 216  
217 d. Phillips Wharf Environmental Center (PWEC), #549—6129 Tilghman Island  
218 Road, Tilghman, MD 21671 (map 44A, parcel 25, zoned Village Center),  
219 Elizabeth Fink, Fink, Whitten & Associates, LLC, Agent.

220  
221 Mr. Ewing presented the staff report and a brief history for the major site plan for  
222 Phillips Wharf Environmental Center to expand the seafood processing facility to  
223 include general retail sales and all ancillary uses related to fisheries activities. The  
224 current 2,206 square foot structure footprint will be replaced and expanded to  
225 7,051 square feet. The new structure will house wholesale distribution, a retail  
226 market of local seafood to distributors, restaurants and the public and include  
227 shore based facilities for docking, offloading and processing. The 380 square foot  
228 general retail space will be located outside of the shoreline development buffer as  
229 this use is not considered a water dependent facility. Phillips Wharf is also  
230 requesting a waiver of Section 190-128C to reduce the number of required  
231 parking spaces from 29 spaces to 27 spaces; and Section 190-122B (3) (b-d) to  
232 eliminate the need for landscaping in parking areas.

Staff recommendations include:

1. The applicant shall address all the issues mentioned in the staff report dated June 25, 2014 and the Technical Advisory Committee's comments dated June 18, 2014. Technical Advisory Committee met with the applicant on June 11, 2014.
2. The applicant shall make application to and follow all of the rules, procedures, and construction timelines as outlined by the Planning and Permits Department regarding new construction.
3. The activities occurring in the shoreline development buffer shall be limited to the fisheries activities use, as defined in the *Talbot County Code*.
4. The applicant shall build the wooden decks and steps to meet the Maryland Chesapeake Bay Critical Areas Commission's standards for pervious decks as follows:
  - a. Install decking with a minimum of 1/4" spacing between the decking strips;
  - b. Install approved native plants around the perimeter of the deck to minimize runoff.
5. The general retail use shall not exceed 2,000 square feet of gross floor area.

Commissioner Hughes asked if the staff has a view on the landscaping waiver. Mr. Ewing stated that normally street trees are recommended.

Elizabeth Fink, Fink Whitten & Associates on behalf of client Phillips Wharf Environmental Center (PWEC) with Kelly Cox and George Urich. Ms. Fink explained that the proposed off site wetland swales and the vegetation provided along the frontage in these areas is ample enough that there is no need to plant more trees. The landscaping already being provided just off site is above and beyond anything required. Mr. Ewing commented that the swales located off of the subject property are in the state right-of-way.

Commissioner Spies stated the landscaping waiver request is due to the fact that the screening is being put in on the State road right of way. We want to make the waiver conditional upon the screening being installed on the State road property.

Commissioner Hughes asked for public comments, there were none.

Commissioner Boicourt moved to grant Phillips Wharf Environmental Center major site plan approval, provided the staff's recommended conditions are complied with; Commissioner Sullivan seconded the motion carried unanimously.

Commissioner Sullivan moved to grant the parking waiver for reduction of the number of spaces from 29 spaces to 27 spaces, Commissioner Boicourt seconded the motion. The motion carried unanimously.

Commissioner Sullivan moved to grant the landscaping waiver for reducing the parking lot trees by three, and the number of street trees required by six, Commissioner Boicourt seconded the motion. The motion carried unanimously.

- e. Coaches Island Corp., Peter H. Tulloch, #L1221—near Poplar Island (map 38, grid 1, parcel 1 and 39, lots 1-10, zoned Rural Conservation), Bill Stagg, Lane Engineering, LLC, Agent.

Ewing presented staff report and history for a minor revision plat to abandon 10 existing agricultural parcels and parcel 39 and to make the parcel buildable with an approved sewage disposal area. Due to the parcel's unique character, staff requested a recommendation to the Planning Officer in accord with *Talbot County Code* §190-189.C. (3).

Staff recommendations include:

1. The applicant shall address all the issues mentioned in the staff report dated June 25, 2014 and the Technical Advisory Committee's comments dated June 18, 2014. Technical Advisory Committee met with the applicant on June 11, 2014.

Bill Stagg, Lane Engineering, LLC, appeared on behalf of the applicant. The applicant's proposes to abandon all internal lot lines and to build one house. The structures constructed without permits will be removed or legalized.

Ms. Verdery clarified the comments regarding the lots needing approval from the Office of Law in regard to abandonment of the subject agricultural parcels. When a parcel is created for non-developmental purposes, they enter into an agreement with the County because it did not meet current density to allow them to create the smaller parcels. Mr. Stagg has been in contact with the County Attorney and hope to take this for an administrative action on July 8<sup>th</sup> through the Council process because the County was involved in the creation of these lots. As a party to the creation, the county has to agree to undo them.

Commissioner Sullivan motioned to recommend to the Planning Officer to grant Coaches Island Corporation, map 38, grid 1, parcel 1 and 39, sketch approval, provided the staff's recommended conditions are complied with, and that the Planning Officer may also approve preliminary and final plans; Commissioner Boicourt seconded the motion. The motion carried unanimously.

- f. Recommendation to County Council—Text Amendment §190-75. Piers and Related Boat Facilities (Community and Private

Ms. Verdery stated that the County Council has introduced the pier legislation. Their public hearing will be held on July 8<sup>th</sup>. Prior to their introduction they made one amendment after the Planning Commissions' recommendation. The Planning

Commission had recommended that a private pier be limited to four boat lifts and two jet ski lifts. The County Council determined that private piers be limited to a cumulative total of four water craft lifts with no more than two lifts for jet skis.

Commissioner Sullivan questioned if someone had more than this currently what would happen. Ms. Verdery stated they would be grandfathered.

Commissioner Boicourt moved to communicate to the County Council the Planning Commission's support of the amendment of the pier legislation, Commissioner Fischer seconded the motion. The motion carried unanimously.

**5. Discussions Items**

**6. Staff Matters**

**7. WorkSessions**

**a. Draft Comprehensive Plan**

**8. Commission Matters**

**9. Adjournment**—Commissioner Hughes adjourned the Planning Commission meeting at 10:47 a.m. and proceeded to the worksession.

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